**HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA**

**Writ Petition No. 8521 of 1998**

**Dated: 30.03.2007**

Between:

Arumugam S/o Krishna Gounder and four others

**.... PETITIONERS**

**AND**

**The Divisional Forest Officer, Chittoor West Division, Chittoor and one another**

**.....RESPONDENTS**

## HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

**Writ Petition No.8521 of 1998**

**Order**:

The petitioner approached this Court by filing the present Writ Petition with the following prayer:

> "For the reasons stated in the accompanying affidavit filed, the petitioners herein prays that this Hon'ble court may be pleased to issue a writ or order or direction more particularly a writ of Mandamus declaring the action of the 1st respondent in not implementing the orders of the 2nd respondent in RC.No. A.84/64(B), dated 28.5.1997 as illegal, improper, unjust, arbitrary and contrary to law and further declare hat the action of the 1st respondent in dispossessing the petitioner from the land in question as illegal, improper, unjust, arbitrary and contrary to law and pass orders as it may deem fit and just".

Brief facts are that the Forest Settlement Officer, Nellore, conducted an enquiry under Section 10 of the A.P. Forest Act and passed three awards in proceedings No. A.84/64(A) on 26.4.1974 and 84/64(B) on 11.6.1974. Against the said above awards passed by the Forest Settlement Officer, the Divisional Forest Officer preferred appeals under Section 13(2) of the Forest Act and they are numbered as A.S.Nos. 120, 121 and 122 of 1974, on the file of the District Court. The learned District Judge after hearing all the parties concerned dismissed the said appeals. Pursuant to the said dismissal, the first respondent implemented the awards in proceedings No. 84-64(A) dated 26.4.1974 and 84/64(B), dated 11.6.1974. However, a writ petition was filed

questioning the award passed in proceeding No. 84/64(B) dated 11.6.1974, as confirmed in A.S.No. 121/74. This Hon'ble Court was pleased to allow the said Writ Petition and accordingly, A.S.No. 121/74 was remanded to the District Court, which in turn remitted the matter back to the Forest Settlement Officer, Nellore, for fresh enquiry and disposal.

Pursuant thereto, the Forest Settlement Officer, Nellore, again held an enquiry and passed an award again in tune with the earlier award dated 11.6.1974. The present award was passed on 28.5.1997.

Now the grievance of the petitioner is that despite the said award passed by the Forest Settlement Officer, the respondents particularly, the first respondent is not implementing the said award. Hence, he approached this Court by way of filing the present Writ Petition.

A counter affidavit is filed, wherein almost all the facts are admitted, but it is stated that the Forest Settlement Officer, Nellore, has rejected the claim of the petitioner on 6.6.1976 on the ground that the lands claimed by the petitioners are situated outside the declared reserve forest, but again the very same Settlement Officer, Nellore, admitted the claim of the petitioners on the false documents prepared by the trainee officers. Further, it is stated that the Forest Settlement Officer having confirmed the order in proceedings No. 84/64-B dated 11.6.1974 condoned the delay in making the original claim. It is further stated that the matter again carried in appeal and the same is pending in the District Court.

A reply affidavit is filed, wherein, it is categorically denied that no appeal is pending before the District Judge.

Heard.

When once the Forest Settlement Officer passed an award in favour of the petitioners, even if it is wrong, the bounden duty of the authority is either to implement the said award or to prefer an appeal. Though it is stated by the first respondent that an appeal is filed and the

same is pending, as the same is denied, this court is unable to decide the said issue. However, if the said order passed by the Forest Settlement Officer, second respondent herein dated 28.5.1997 has become final and no appeal is preferred, the first respondent herein is directed to implement the said award passed in R.C.No. A.84/64(B) dated 28.5.1997 and if there is any appeal is pending, the appeal may be pursued by both the parties.

Accordingly, the Writ Petition is allowed. No order as to costs.

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**GOPALA KRISHNA TAMADA, J.**

Date: 30.03.2007
**KA**